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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

BLACK ROCK CITY LLC

Plaintiff,

v.

PERSHING COUNTY BOARD OF  
COMMISSIONERS, et al.,

Defendants.

**CASE NO. 3:12-cv-00435-RCJ-(VPC)**

**DECLARATION OF ADAM BELSKY  
IN SUPPORT OF PLAINTIFF BLACK  
ROCK CITY LLC'S RULE 59 AND  
RULE 60 MOTIONS**

1 I, Adam Belsky, declare as follows:

2 1. I am an attorney duly admitted to practice law in the State of California, and I am a  
3 partner at Gross Belsky Alonso LLP, counsel for plaintiff Black Rock City LLC ("BRC") in this  
4 action. I have personal knowledge of the facts stated in this declaration, and, if called as a  
5 witness, I could and would testify competently to these facts.

6 2. I submit this declaration in order to address the following statements made by the  
7 Court in its Order dated January 6, 2014 (Dkt. No. 104): that BRC "committed a fraud" on the  
8 Nevada Legislature by: (1) "misrepresenting" the Court's Order dated April 26, 2013 (Dkt. No.  
9 60)] to the Nevada Legislature "as evidence that this Court condoned its claims and its intended  
10 [settlement] agreement," and (2) "rel[ying] on this Court's Order (Dkt. No. 60) in lobbying for  
11 the enactment of A.B. 374, using the Court's language on the facial defects in the County's then-  
12 existing Festival Ordinance (*i.e.*, the previous version of PCC 5.16.180), to persuade the Nevada  
13 Legislature to create an exemption to NRS 244.320 and NRS 244.354." Order dated January 6,  
14 2014 (Dkt. No. 104) at 19, 26, 27, 28.

15 3. These statements by the Court lack any support in the record before the Court; and  
16 even if information about these statements had been in the Court record, these statements are  
17 untrue. As discussed below in Paragraphs 5–9, BRC did not misrepresent the Court's Order to  
18 the Nevada Legislature, and BRC did not utilize the Court's Order to persuade the Nevada  
19 Legislature to create any exemption.

20 4. The Court's April 26, 2013 Order played virtually no role in the Legislature's  
21 consideration and passage of A.B. 374; indeed, A.B. 374 passed the Assembly before the Court's  
22 Order was even issued. The following is a summary of the introduction and passage of A.B. 374:

23 a. On March 18, 2013, A.B. 374 was introduced in the Nevada Legislature by  
24 primary sponsors Assemblyman David Bobzien and Senators Ruben Kihuen, Debbie  
25 Smith, Tick Segerblom, and David R. Parks, and co-sponsors Assemblyman Paul Aizley,  
26 Assemblyman Elliot Anderson, Assemblywoman Teresa Benitez-Thompson,  
27 Assemblywoman Irene Bustamante Adams, Assemblywoman Maggie Carlton,  
28 Assemblyman Skip Daly, Assemblywoman Marilyn Dondero Loop, Assemblyman Andy

1 Eisen, Assemblywoman Michele Fiore, Assemblyman Jason Frierson, Assemblyman  
2 James Healey, Assemblyman Pat Hickey, Assemblywoman Marilyn Kirkpatrick,  
3 Assemblyman Andrew Martin, Assemblywoman Peggy Pierce, Assemblywoman Ellen  
4 Spiegel, Assemblyman Michael Sprinkle, and Senator Ben Kieckhefer.

5 b. As introduced, A.B. 374 amended the NRS provisions governing county  
6 regulation of outdoor assemblies to exempt assemblies held on federal land pursuant to a  
7 federal permit from County regulation pursuant to these provisions. A true and correct  
8 copy of A.B. 374 as introduced is attached to this Declaration as Exhibit A.

9 c. On April 23, 2013—three days before the Court issued its April 26, 2013  
10 Order (Dkt. No. 60)—the Assembly passed A.B. 374 by a vote of 26 to 15. As passed by  
11 the Assembly, A.B. 374 continued to exempt assemblies held on federal land pursuant to a  
12 federal permit from County regulation. A true and correct copy of A.B. 374 as passed by  
13 the Assembly is attached to this Declaration as Exhibit B.

14 d. On May 15, 2013, the Pershing County Board of Commissioners, in an  
15 effort to persuade the Legislature to adopt an amendment to A.B. 374 proposed by the  
16 Nevada Association of Counties that, instead of prohibiting counties from regulating  
17 assemblies held on federal land pursuant to a federal permit, would provide counties with  
18 discretion whether or not to exempt such assemblies, passed a resolution, and signed a  
19 “Declaration to State Legislature,” that Pershing County would “implement the  
20 Exemption provision of the proposed amendment in perpetuity for the Burning Man  
21 Event,” if the Legislature enacted the amendment. The Declaration stated that this was  
22 “an attempt to protect the current rights of all counties in Nevada as set forth in NRS  
23 244.354 to NRS 244.3548.” A true and correct copy of the County’s Declaration to State  
24 Legislature is attached to this Declaration as Exhibit C.

25 e. On May 17, 2013, the Senate Government Affairs Committee adopted an  
26 amendment to A.B. 374 that changed the exemption for assemblies held on federal land  
27 pursuant to a federal permit from mandatory to discretionary. A true and correct copy of  
28 A.B. 374 as passed by the Senate Government Affairs Committee is attached to this

1 Declaration as Exhibit D.

2 f. On May 24, 2013, the Senate passed A.B. 374 as amended by a vote of 21  
3 to 0.

4 g. On May 27, 2013, the Assembly concurred in the Senate version of the bill,  
5 and on June 1, 2013, the Governor signed the bill into law. A true and correct copy of  
6 A.B. 374 as enacted is attached to this Declaration as Exhibit E.

7 5. BRC appeared before the Legislature on only two occasions to testify in support of  
8 A.B. 374: (1) at the Assembly Government Affairs Committee hearing on A.B. 374 on March 22,  
9 2013; and (2) at the Senate Government Affairs Committee hearing on A.B. 374 on May 8, 2013.  
10 True and correct copies of the Minutes for the March 22 and May 8 hearings downloaded from  
11 the Nevada Electronic Legislative Information Service, which contain BRC's testimony, are  
12 attached to this Declaration as Exhibits F and G.

13 6. In its testimony to the Assembly Government Affairs Committee on March 22,  
14 2013, BRC made no reference to this litigation. *See* Exhibit F (March 22, 2013 Hearing Minutes  
15 at 4-18).

16 7. In its testimony to the Senate Government Affairs Committee on May 8, 2013, the  
17 sole statement that BRC made concerning the Court's April 26, 2013 Order was the following  
18 reference made by me as counsel for BRC:

19 In the lawsuit pending between Black Rock City and Pershing County, the judge  
20 issued a ruling on the defendant's motion to dismiss. The judge dismissed the federal  
21 preemption claim, but he allowed the First Amendment and the breach of contract  
22 claims to go forward.

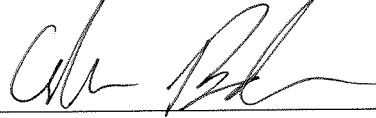
23  
24 This is just a preliminary ruling at this point. The judge gave Burning Man permission  
25 to amend its complaint. The ruling is also subject to appeal. This issue in litigation  
26 will be ongoing for quite some time. We do not yet know what the resolution will be.  
27 Exhibit G (May 8, 2013 Hearing Minutes) at 13.

28 8. This statement was factually accurate. I did not cite the Court's Order "as

1 evidence that this Court condoned [BRC's] claims and its intended [settlement] agreement," and I  
2 made no reference to or use of "the Court's language on the facial defects in the County's then-  
3 existing Festival Ordinance (i.e., the previous version of PCC 5.16.180)." April 26, 2013 Order  
4 (Dkt. No. 60) at 27.

5 9. At the May 8, 2013 Senate Government Affairs Committee hearing, Jim Shirley,  
6 the district attorney of Pershing County and a defendant in this lawsuit, testified on behalf of  
7 Pershing County in opposition to A.B. 374. Mr. Shirley cited the Court's ruling dismissing  
8 BRC's federal preemption claims as evidence that A.B. 374 should be defeated. Exhibit G (May  
9 8, 2013 Hearing Minutes) at 20.

10 I declare under penalty of perjury under the laws of the United States that the foregoing is  
11 accurate to the best of my knowledge. Executed this \_\_\_ Day of February, 2014.

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14 Adam Belsky  
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